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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
,09/843,073	04/27/2001	Satoshi Okamoto	2576-108	9256
6449	7590	10/06/2003	EXAMINER	
ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			POKER, JENNIFER A	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/843,073	OKAMOTO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jennifer A. Poker	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 04 February 2003 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This is a third action on the merits of application filed on April 27, 2001. Claims 1-13 are pending and are being examined.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-8, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,322,875 to Kimura in view of U.S. Patent Number 6,084,190 to Kenmochi.

Kimura discloses a layered key top for assembly in a push button switch comprising:

- (1) A base key top (Abstract) (Figures 4 and 5);
- (2) An inorganic thin membrane on the surface or backside of the key top, characterized by rainbow-colored luster. (Abstract) (Figures 4 and 5); inorganic thin film made of metal materials such as aluminum, platinum, copper or alloy, metallic oxide, etc; (Column 3, lines 32-35)
- (3) A transparent high polymer protective membrane on the surface of the inorganic thin membrane; (Abstract) (Column 5, lines 61-67) (Figures 4 and 5)
- (4) (Known in conventional methods) A method of metal plating is used for placing layers upon surfaces of others; (Column 1, lines 13-22)
- (5) A layer between the base and the inorganic thin membrane, in order to protect the printed layer of a letter or symbol; (Figure 7) (Column 7, lines 31-32)

- (6) An operating portion; (Column 2, lines 37-39)
- (7) A hollowed section located at the bottom end of the switch. (Figure 6)

Kimura discloses the claimed invention except for a "molded" film. However, Kimura does disclose a polymer membrane. Applicant admits in the abstract along within the first embodiment that a polymer is a moldable substance.

Kenmochi discloses an illuminated keypad key comprising a light-permeable resin key top. The film on the key top is formed by resin molding in order to improve the durability of the push button key/switch.

One skilled in the art, at the time the invention was made would have found it obvious to combine the teachings of Kimura with the teachings of Kenmochi and incorporate a resin molded key top in order to improve the durability of the push button.

Claims 10-12 are method counterparts to product claim 1, and steps are inherent for fabricating a press button switch as claimed by the inventor.

3. Claims 2-4 and 13 is rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent Number 6,322,875 to Kimura in view of U.S. Patent Number 6,084,190 to Kenmochi.

Regarding claims 2 and 3, Kimura discloses the claimed invention except for the transparent film being colored (claim 2) or the transparent film being colorless (claim 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to either use a colored film or a colorless film (one or the other would have to be used), since applicant has not disclosed that the color film, as claimed in claim 2, or the colorless film, as claimed in claim 3, solves

any stated problem or is for any particular purpose and it appears that the invention would perform equally well with either colored or colorless. The applicant even states on page 2, line 33 and on page 3 line 4 that either one is preferable.

Regarding claim 4, Kimura states that an inorganic thin membrane with transmittance acts as a third layer; (figure 6) (Column 3, lines 13-14)

Regarding claim 13, Kimura discloses the claimed invention except for the undercoat layer being formed by depositing metal on the film, however he does disclose deposition methods in general.

Although the product claim is limited by and defined by the recited process, "...formed by depositing metal on the film," the determination of patentability of the product is based on the product itself, and does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985)

### *Response to Arguments*

4. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Further arguments are addressed below:

- (1) 35 U.S.C. 112, second paragraph, rejection is withdrawn.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Poker whose telephone number is 703-305-4037. The examiner can normally be reached on 10:00-8:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on 703-308-7619. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

jap  
September 22, 2003

*[Signature]*  
LINCOLN DODD VAN  
PRIMARY EXAMINER  
GROUP 2109